



UNITED STATES DEPARTMENT OF STATE  
AND THE BROADCASTING BOARD OF GOVERNORS  
*OFFICE OF INSPECTOR GENERAL*

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# Audit of Department of State Selection and Positioning of Contracting Officer's Representatives

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United States Department of State  
and the Broadcasting Board of Governors

*Office of Inspector General*

PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG and, as appropriate, have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in blue ink, appearing to read "Norman P. Brown".

Norman P. Brown  
Acting Assistant Inspector General  
for Audits

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**Acronyms**

AF	Bureau of African Affairs
AFRICAP	Africa Peacekeeping
AHCP	Acquisition Human Capital Plan
A/LM/AQM	Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management
A/OPE	Bureau of Administration, Office of the Procurement Executive
CO	Contracting Officer
COR	Contracting Officer's Representative
CORT	Contracting Officer's Representative Tracking Tool
DGHR	Director General of the Foreign Service and Director of Human Resources
DoD	Department of Defense
DOSAR	Department of State Acquisition Regulation
FAC-COR	Federal Acquisition Certification for Contracting Officer's Representatives
FAH	<i>Foreign Affairs Handbook</i>
FAM	<i>Foreign Affairs Manual</i>
FAR	Federal Acquisition Regulation
GTM	Government Technical Monitor
INL	Bureau of International Narcotics and Law Enforcement Affairs
NEA	Bureau of Near Eastern Affairs
NEC	New Embassy Compound
OBO	Bureau of Overseas Buildings Operations
OFPP	Office of Federal Procurement Policy
OIG	Office of Inspector General
OMB	Office of Management and Budget
PIB	Procurement Information Bulletin
PSC	Personal Services Contract

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**Executive Summary**

Contracting Officer's Representatives (COR) serve as important members of the Department of State (Department) acquisition workforce. CORs handle such critical contract administration tasks as verifying receipt of goods and services before payments are made on contractor invoices, providing general oversight of contract performance, and working with the contractor and the Contracting Officer (CO) to resolve any problems that may arise. In addition, Government Technical Monitors (GTM) are sometimes assigned to assist CORs in performing oversight responsibilities, particularly on those contracts that have several sites at which the work is being completed.

From 2009 to 2011, the Department's Office of Inspector General (OIG) issued four reports<sup>1</sup> that identified deficiencies for particular Department contracts in the performance of COR responsibilities and COR positioning, that is, CORs being placed in the most optimal locations from which to perform their responsibilities. OIG initiated this audit to determine the extent to which the Department's CORs and GTMs were selected and positioned to successfully perform their assigned contract administration and oversight responsibilities. To fulfill the audit objective, OIG examined one contract judgmentally selected from each of four bureaus: the Bureau of African Affairs (AF), the Bureau of International Narcotics and Law Enforcement Affairs (INL), the Bureau of Near Eastern Affairs (NEA), and the Bureau of Overseas Buildings Operations (OBO).

OIG found that COR and GTM experience, positioning, and oversight were adequate for three of the four contracts reviewed. For the fourth contract, however, OIG found inadequate COR experience, positioning, and oversight within AF, which resulted in AF's using third-party contractors to perform inherently governmental functions. OIG also found significant COR-related internal control weaknesses. Specifically, Department-wide COR workforce management and planning needs to be improved, and certain Department COR-related policies require implementation guidance to be effective.

OIG made recommendations to improve contract administration and oversight within AF, such as requiring prior contract oversight experience for individuals who would perform COR-related duties and pursuing all opportunities to employ Government employees rather than contractors for COR duties. OIG also made recommendations to improve COR workforce management and policies, to include specifying the types of information that should be documented in COR nomination memoranda, and to improve acquisition workforce planning efforts, to include requesting input from all Department bureaus in developing the annual Acquisition Human Capital Plan (AHCP).

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<sup>1</sup> *DoD and DOS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program* (AUD/CG-11-30, July 2011), *Performance Evaluation of PAE Operations and Maintenance Support for the Bureau of International Narcotics and Law Enforcement Affairs Counternarcotics Compounds in Afghanistan* (MERO-I-11-02, Feb. 2011), *Audit of Allegations Pertaining to Contract With DynCorp International for the Security Sector Transformation Project in South Sudan, Africa* (AUD/SI-10-23, Aug. 2010), and *Inspection of the Bureau of African Affairs* (ISP-I-09-63, Aug. 2009).

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In its December 9, 2013, responses (see Appendices B and C) to the draft report, the Department concurred with four recommendations, did not concur with one recommendation, and did not state whether or not it concurred with five recommendations. Based on the responses, OIG considers five recommendations resolved, pending further action, and five recommendations unresolved. Management responses and OIG's replies to those responses are included after each recommendation.

### **Background**

In FY 2011, the Department spent approximately \$8.2 billion in contract actions in support of its mission. Therefore, ensuring that the Department's acquisition oversight workforce has the experience, training, and capability to be effective stewards of resources is essential to efficient operations at the Department and to ensuring that Federal funds are spent wisely. The Department accomplishes contract oversight mainly through CORs and GTMs, both of whom are an integral part of the Department's acquisition workforce. According to the Department's Contracting Officer's Representative Handbook,<sup>2</sup> the COR is the "eyes and ears" of the CO. The Handbook states that while COs are experts in contracting procedures, they rarely have the requisite technical expertise to ensure successful contract completion. Accordingly, the *Foreign Affairs Handbook*<sup>3</sup> (FAH) states that the CO must rely on the COR to assist in contract administration to ensure that the contractor accomplishes the technical and financial aspects of the contract. The Department of State Acquisition Regulation<sup>4</sup> (DOSAR) further allows COs to designate technically qualified personnel as their authorized representatives, prescribing that "only Department of State employees<sup>5</sup> who have completed adequate training and have the necessary experience and judgment shall be appointed as CORs."

At the request of a COR, a CO may appoint a GTM to assist with contract administration and contractor oversight. The DOSAR states that a GTM may be appointed "because of physical proximity to the contractor's work site, because of special skills or knowledge necessary for monitoring the contractor's work, or to represent the interests of another requirements office or post concerned with the contractor's work."<sup>6</sup>

According to the *Foreign Affairs Manual*<sup>7</sup> (FAM), the Office of the Procurement Executive (A/OPE) "evaluates, monitors[,] and reports . . . on the performance of the Department's procurement system." As a part of this responsibility, A/OPE prescribes the Department's acquisition policies, regulations, and procedures and develops and maintains a procurement career management program to ensure an adequate professional workforce.

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<sup>2</sup> 14 FAH-2, "Contracting Officer's Representative Handbook."

<sup>3</sup> Ibid.

<sup>4</sup> DOSAR 642.270, "Contracting Officer's Representative."

<sup>5</sup> For the purposes of this section, the DOSAR notes that the definition of employee included both Civil Service and Foreign Service employees, as well as personal services contractors.

<sup>6</sup> DOSAR 642.271(a).

<sup>7</sup> 1 FAM 212.2, "Office of the Procurement Executive (A/OPE)."

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**Federal Acquisition Certification Requirements for CORs and GTMs**

Aside from possessing the requisite technical expertise to oversee contract performance, CORs and GTMs must also obtain specific COR-related training and experience.<sup>8</sup> To accomplish this, the Office of Federal Procurement Policy (OFPP) requires CORs and GTMs to be certified under the Government-wide Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR) program before appointment. A/OPE implemented this program within the Department on July 29, 2010. Initially, the FAC-COR certification program required that CORs and GTMs demonstrate that they had received COR-related training to be certified under a single-tier structure. OFPP later revised the certification program from one tier to three tiers, which A/OPE subsequently implemented within the Department on August 8, 2012, through Procurement Information Bulletin (PIB) 2012-15. The revised FAC-COR system, as implemented by the PIB, expanded the requirements for becoming certified from simply having COR training to having both training and relevant contract-related experience, which, as defined in the PIB, encompasses both activities experience and appointed experience. The PIB defines "activities experience" as performing activities such as market research, writing statements of work, assisting the CO or a COR as a technical monitor, and participating as a subject matter expert on a technical evaluation team. The PIB also defines "appointed experience" as "performing as a COR or GTM appointed in writing by a Contracting Officer." FAC-COR certifications under either system are valid for 2 years, during which time an individual must meet the requisite training and experience requirements for recertification. The amount of training and experience an individual needs to have depends on the level of FAC-COR certification sought. The training and experience requirements associated with each of the three FAC-COR certification levels are summarized in Table 1.

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<sup>8</sup> According to DOSAR 642.271(b) and Procurement Information Bulletin 2012-15, CORs and GTMs have the same requirements for FAC-COR certification.

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**Table 1. Summary of Department Procurement Information Bulletins Related to FAC-COR Certification Requirements**

<b>PIB 2010-20</b> July 29, 2010	<b>PIB 2012-15</b> August 8, 2012
<ul style="list-style-type: none"> <li>• Implemented the Government-wide FAC-COR program within the Department.</li> <li>• Mandated that employees have an active FAC-COR certification in order to be eligible for appointment as either a COR or a GTM.</li> <li>• Established 2-year validity period for FAC-COR certifications.</li> </ul> <p><u>Certification Requirements:</u> 40 hours of training.</p>	<ul style="list-style-type: none"> <li>• Expanded the FAC-COR certification program from one tier to three tiers.</li> <li>• Added requirement that individuals should have activities and/or appointed experience to obtain FAC-COR certification.</li> <li>• Established requirement that COs should make a determination during the planning phase of an acquisition regarding which FAC-COR certification level an individual must have in order to be delegated as a COR or GTM.</li> <li>• Provided guidelines regarding the types and complexity of contracts appropriate for each certification level.</li> <li>• Retained 2-year validity for FAC-COR certifications.</li> <li>• Established that individuals who hold FAC-COR certifications under the prior one-tier system are automatically regarded as having a Level II certification under the revised system.</li> <li>• Noted that FAC-COR certifications issued under the earlier system would remain valid for the entirety of their 2-year validity period before holders would need to apply for recertification.</li> </ul> <p><u>Certification Requirements:</u> <b>Level I:</b> 8 hours of training and at least 6 months of U.S. Government experience. --Appropriate for simple orders and contracts at or below the Simplified Acquisition Threshold.*  <b>Level II:</b> 40 hours of training and 12 months of COR-related activities and/or appointed experience. --Appropriate for more complex orders or contracts.  <b>Level III:</b> 60 hours of training and 24 months of COR-related activities and/or appointed experience. --Appropriate for use on any contract or order supporting a major investment, as defined by Office of Management and Budget Circular A-11.</p>

Sources: PIBs 2010-20 (Jul. 29, 2010) and 2012-15 (Aug. 8, 2012).

\* For 2013, the Simplified Acquisition Threshold is defined by the FAR as \$150,000, except for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from a nuclear, biological, chemical, or radiological attack.

## **Contracts Sampled for Assessing COR and GTM Selection and Positioning**

To assess the Department's management of its COR and GTM workforce, OIG selected four high-value contracts for review using a non-statistical sampling method known as "judgment sampling." In selecting which contracts OIG would review, auditors sought out high-value contracts relating to programs managed by a variety of bureaus, obtained suggestions from each of the four procurement division directors within the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM), and sought to avoid contracts and programs that had been or would soon be the subject of another OIG audit or inspection. All four contracts were awarded by A/LM/AQM on behalf of another bureau. (A detailed description of OIG's selection methodology is in Appendix A.) A brief synopsis of each contract follows:

Through the Africa Peacekeeping (AFRICAP) program, the Department, through AF, provides a range of technical assistance and equipment for African military and peace support organizations throughout the continent. OIG selected one of the four AFRICAP contracts with the contractor AECOM Government Services, Inc. (AECOM) (No. SAQMMA09D0082) for review. AECOM had four active task orders under the AFRICAP program. One task order was underway in South Sudan; another related to the United Nations peacekeeping mission in Somalia; and two were active in the Democratic Republic of the Congo, all of which are difficult countries for executing and overseeing contracted work. According to data provided by A/LM/AQM, the Department obligated approximately \$104 million for AECOM's activities for the AFRICAP program during FYs 2010, 2011, and 2012. Oversight of AECOM's contracted functions in Africa was conducted by third-party contracted "site coordinators" instead of GTMs. The site coordinators perform essentially the same functions as GTMs in the countries where the task orders are being performed.

Under the INL Air Wing contract (No. SAQMMPD05C1103), DynCorp International, LLC, provided aviation-related operational and training services in the United States at the INL Air Wing program office at Patrick Air Force Base, Florida, and in various foreign countries, including Afghanistan, Bolivia, Colombia, Guatemala, Iraq, Pakistan, and Peru. According to data provided by A/LM/AQM, the Department obligated approximately \$1.24 billion for this contract during FYs 2010, 2011, and 2012.

After the withdrawal of most of the Department of Defense (DoD) presence in Iraq in 2011, the Department became responsible for providing medical care to U.S. Government employees and contractors working in Iraq. This responsibility fell to NEA, in coordination with Embassy Baghdad. To meet these needs, the Department issued the Medical Support Services in Iraq contract (No. SAQMMA11D0073) to CHS Middle East, LLC. Under the contract, the contractor operates a number of hospitals and other health care units in Baghdad and elsewhere in Iraq. According to data provided by A/LM/AQM, during FYs 2010, 2011, and 2012, the Department obligated approximately \$136 million for this contract.

On September 24, 2012, the Department awarded a contract (No. SAQMMA12C0232) to BL Harbert International, LLC, for the design and construction of a New Embassy Compound

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(NEC) in Jakarta, Indonesia. According to data provided by A/LM/AQM, the contract was awarded for approximately \$302 million and had no further obligations before the end of FY 2012. The Jakarta NEC contract was a design-build, firm fixed-price contract overseen by OBO.

### **Objective**

The objective of this audit was to determine the extent to which the Department's CORs and GTMs were selected and positioned to successfully perform their assigned contract administration and oversight responsibilities.

### **Audit Results**

#### **Finding A. COR and GTM Experience, Positioning, and Oversight Were Adequate for Three of Four Contracts Reviewed**

For the OBO, NEA, and INL contracts that OIG reviewed, CORs and GTMs were technically qualified and possessed the COR-related experience required by the FAC-COR certification program, were positioned to effectively and efficiently conduct their contract administration duties, and performed adequate oversight per their delegated responsibilities. These contracts were successfully administered and overseen because bureau officials followed appropriate policies and procedures as specified in the FAH and PIB 2012-15. The only exception involved the AF contract for peacekeeping operations in particular African countries. Details of this contract are presented in Finding B.

#### **COR and GTM Experience**

The FAH<sup>9</sup> states that bureau officials should nominate "technically qualified, responsible, and certified" individuals to be CORs and GTMs. To ensure that CORs and GTMs are certified, the Department requires that they possess a FAC-COR certification before appointment, which requires an applicant to have both training and relevant contract-related experience. The CORs assigned to the OBO, NEA, and INL contracts were all technically qualified based on their areas of expertise, and they were all certified at the highest certification level, Level III. This meant that each COR had obtained at least 60 hours of training and 24 months of previous COR-related activities and/or appointed experience. Additionally, for the INL Air Wing contract, OIG selected a random sample of 10 of 55 GTMs and found that all 10 GTMs had current FAC-COR certifications: 8 at Level II and 2 at Level I. The experience possessed by the CORs and the GTMs assigned to these three contracts is as discussed in the sections that follow.

#### **OBO NEC Contract in Jakarta**

For the Jakarta NEC contract, the COR earned an undergraduate degree in civil and construction engineering, as well as a master's degree in business administration. In addition, he

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<sup>9</sup> 14 FAH-2 H-143.2, "COR Appointment Procedures."

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had over 25 years of construction experience. He was a Foreign Service construction engineer who had been promoted to FS-01, which is equivalent to a GS-15. He had 18 years of Government procurement experience and had provided oversight for several multi-million dollar contracts, including the Beijing, China NEC. Similarly, the Alternate COR had worked as a COR or Alternate COR since 1985 and had a bachelor's degree in mechanical engineering. He had 28 years of experience in Government procurement and was assigned as an Alternate COR for other NEC contracts, including those for Belgrade, Serbia, and Freetown, Sierra Leone. The Alternate COR was a Foreign Service construction engineer at FS-02 grade level, which is equivalent to a GS-14.

### **NEA Medical Support Services Contract in Iraq**

For the NEA contract, the COR had highly specialized experience in overseeing medical services contracts in conflict areas such as Iraq. He was an officer in the U.S. Army who worked on planning for the transition of medical and other services from the DoD to the Department before being hired by the Department to oversee the transitioned medical program. He had been the COR on the NEA contract since November 2011. The Alternate COR was also an officer in the U.S. Army who worked in Iraq. As an Alternate COR, he worked to maintain the Department's basic life support service requirements after 2011.

### **INL Air Wing Contract**

The COR for the INL Air Wing contract had 28 years of general aviation experience, 20 years of which were spent specializing in aircraft maintenance. Before being appointed as the COR in October 2012, he worked as a GTM for the INL Air Wing contract in Colombia for approximately 6 years. The Alternate COR had 25 years of contract administration and aviation experience. Regarding the GTMs, the COR stated that the GTMs hired for the INL Air Wing contract were subject matter experts in aviation. In addition, as previously mentioned, 10 of 55 GTMs that OIG randomly sampled possessed FAC-COR certifications (8 at Level II and 2 at Level I). Both the COR and the Alternate COR stated that they were responsible for oversight and administration of the INL Air Wing contract alone, that is, without any responsibilities for any other contracts. OIG found that the COR and Alternate COR had adequate time to perform their duties, were adequately reviewing invoices, and were positioned in the correct location to perform their contract monitoring duties. Their ability to be singularly focused on just one contract likely helped them provide better outcomes for contract oversight and administration for this contract.

### **COR and GTM Positioning**

OIG found that for the OBO, NEA, and INL contracts, CORs or GTMs were generally placed in the countries within which the contracted work was being performed. Placing CORs or GTMs at the locations where the contractor performed its work was better than monitoring contractor performance remotely because it allowed the Government to have direct communication with contractor staff, to identify unsatisfactory performance quickly, and to have direct Government observation of the progress and completion of contracted goods and services.

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### **OBO NEC Contract in Jakarta**

For the Jakarta NEC contract, the COR was physically located at the construction site in Jakarta, Indonesia, and the Alternate COR was located in Washington, DC. The CO for this contract stated that monitoring the Jakarta NEC contract was the COR's only duty. This enabled the COR to be fully dedicated to ensuring that contractor performance was meeting the contract terms and conditions. Additionally, OIG found that the Alternate COR's placement in Washington was strategic because, as he stated during an interview, it had enabled him to coordinate all design-related contract activities with OBO headquarters staff. In the event that the COR was not present in Jakarta because of travel or leave, the Alternate COR relied on feedback from another OBO employee who worked with the COR in Jakarta to fulfill his oversight role on the Jakarta contract.

### **NEA Medical Support Services Contract in Iraq**

The COR and the Alternate COR for the contract to provide medical support services to U.S. Government employees and contractors in Iraq were both located in Baghdad. The contract consisted of a number of task orders that related to the various locations throughout Iraq at which the contractor operated hospitals and health units. The COR stated that he traveled to the contractor-operated facilities outside Baghdad three to four times per year but visited the locations in and around Baghdad more frequently. To ensure that the Government's needs were being met in the interim, the COR said that he obtained and reviewed monthly reports, as required under the contract, from the contractor's project manager. The Alternate COR fulfilled the COR's duties, in addition to his own program management and COR responsibilities for other contracts, during the COR's trips out of Iraq during December 2012 and May 2013.

### **INL Air Wing Contract**

OIG found that the COR, the Alternate COR, and the GTMs for the INL Air Wing contract were positioned in multiple locations where the contract was being performed. Specifically, the COR and the Alternate COR were located at Patrick Air Force Base, Florida, which was the hub to Latin America, as aircraft associated with the contract frequently flew between Latin American countries and the Air Force Base. According to information provided by INL, it had positioned the 55 GTMs for this contract at the locations where the contractor performed its work under the contract: 1 GTM was located in Washington; 32 were located at Patrick Air Force Base; 6 were located in Afghanistan; 5 were located in Iraq; 4 each were located in Colombia and Peru; and 1 each was located in Bolivia, Guatemala, and Pakistan.

### **COR Oversight**

According to their delegation memoranda, the CORs for the contracts reviewed were responsible for such oversight tasks as coordinating with the contractor on all technical matters that may have arisen over the course of contract/task order administration, monitoring and inspecting the contractor's progress and performance to ensure compliance with the contract/task order terms and conditions, receiving deliverables on behalf of the Government, and verifying

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the satisfactory delivery of contract/task order items before approving invoices for payment. Specific examples of how the OBO, NEA, and INL CORs and GTMs from OIG's sample executed their oversight responsibilities, including verification of delivered goods and services before approving invoices for payment on their respective contracts, are discussed in the paragraphs that follow.

### **OBO NEC Contract in Jakarta**

For the Jakarta NEC contract, the contractor provided, and the COR reviewed, an informal invoice in advance of submitting an official invoice. The COR's work site was collocated with that of the contractor at the NEC, enabling the COR to verify that the work being invoiced had been completed. In the event that the COR did not agree that the contractor's invoiced charges were proper or correct, the COR interacted with the contractor to resolve any discrepancies before the contractor submitted the corrected, official invoice to OBO. When the COR was on leave, the Alternate COR would review the invoices and complete this process. Since the Alternate COR was located in Washington, he worked with the Government's construction manager, located onsite in Jakarta, to ensure that all items listed on the invoice had been completed. OIG assessed the process as described by OBO officials for reviewing contractor invoices, and its implementation appeared adequate. In addition, OIG reviewed the one contractor invoice that had been submitted on the contract, from January 2013, and found evidence of proper and timely review.

### **NEA Medical Support Services Contract in Iraq**

The COR and the Alternate COR for the NEA contract were both based at the embassy compound in Baghdad. The COR stated that he performed most of the oversight for the contract and that the Alternate COR had responsibilities on other contracts and monitored this contract only while the COR was on leave or otherwise out of the country. The contractor-operated medical facilities required under the contract were in several locations around Baghdad and in several other cities elsewhere in Iraq. The COR traveled to these facilities frequently, stating that his goal was to visit each location at least once every 3 months, but he noted that he had been able to make it to each site only once every 4 months because of security and other issues related to traveling in Iraq. The COR, and Alternate COR when necessary, received and reviewed all of the contractor's invoices on a monthly basis and interacted with the contractor to resolve discrepancies. OIG requested and reviewed the monthly contractor invoice from April 2013 and found that the COR had provided a sufficient review, including getting discrepancies resolved about employee timesheets, before approving the invoice.

### **INL Air Wing Contract**

For INL's Air Wing contract, the COR used contract management software to review invoices electronically. He stated that he reviewed each line item on the invoice to ensure that the contractor's charges conformed to the contractual requirements. In addition, he said that he contacted one or more of the GTMs located in the country in which the invoiced work had occurred to confirm that the invoiced goods and services had actually been provided. To assess

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the sufficiency of the COR's review and approval of invoices, OIG reviewed the invoices submitted during November 2012. During that month, the COR reviewed the invoices adequately and solicited necessary information from the GTMs before approving the invoices. OIG also obtained and reviewed communication between the CO, the COR, and the GTMs for the same month, November 2012, to assess contract administration and problem resolution. OIG found that the CO, the COR, and the GTMs frequently communicated regarding INL Air Wing contract matters to ensure that any problems were quickly addressed. In addition, OIG found that emails between the COR and the GTMs showed that the COR was performing adequate due diligence to ensure that the Department received goods and services before approving payment for the invoiced charges.

### **Conclusion**

For three of the four contracts reviewed—those under OBO, NEA, and INL—OIG determined that Department officials had appropriately followed Department policies and procedures to ensure that CORs and GTMs assigned to those contracts were technically qualified and met the experience requirements of the FAC-COR certification program, were positioned to effectively and efficiently conduct their contract administration duties, and performed adequate oversight per their delegated responsibilities. Therefore, OIG is not making any recommendations associated with Finding A. (OIG's discussion of the same issues as applicable to the fourth contract, the AF AFRICAP contract, is in Finding B.)

### **Finding B. Challenges Existed With COR Experience, Positioning, and Oversight Within the Bureau of African Affairs**

For the active task orders reviewed for the one AF contract in its sample, OIG determined the following:

- The two CORs<sup>10</sup> assigned to the four active task orders were technically qualified but not required to possess COR-related activities experience and/or have appointed experience.
- The CORs were not positioned in African countries to oversee contractor performance.
- The CORs relied, to a significant extent, on the assistance of third-party contractors to fulfill their delegated contract oversight responsibilities.

The two CORs were not required to have or prove their COR-related experience because they were grandfathered under the prior FAC-COR certification system that required only 40 hours of training versus training plus activities and/or appointed experience. Further, AF COR's positioning and oversight were inadequate because AF's relatively small number of

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<sup>10</sup> The AFRICAP contract was awarded with all of the work to be accomplished through the issuance of task orders. OIG reviewed four task orders under the contract. Two CORs oversaw the task orders, while a third individual was assigned as the COR for the overarching contract. The third individual retired in May 2013, leaving the two other CORs and other office staff members to handle all of the staff member's assigned responsibilities.

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FAC-COR certified employees was insufficient to perform their contract administration responsibilities without supplementary assistance. As a result, third-party contractor personnel, both in the field and at the bureau's offices in Washington, were providing contract oversight, leaving them in a position to provide advice, opinions, recommendations, analyses, or other work products that could influence the authority, accountability, and responsibilities of Government officials. Further, the incomplete attention of experienced and positioned CORs to oversee contractor performance, rather than third-party contractors, resulted in third-party contractors' performing inherently governmental functions.

### **AF COR Experience**

In July 2010, OFPP required all CORs to become certified under the Government-wide FAC-COR certification program. At that time, to become FAC-COR certified, an applicant was required to obtain only 40 hours of training. Subsequently, beginning on January 1, 2012, agencies were required to implement the revised three-tiered FAC-COR certification program, which required an applicant not only to be trained but also to have activities and/or appointed experience. These new requirements were implemented within the Department by PIB 2012-15 and became effective on August 8, 2012. The PIB stated that "anyone possessing a current Department of State FAC-COR certification before this system expansion will be automatically regarded ("grandfathered") as having initial FAC-COR Level II certification." The PIB also stated that "all certifications are good for two years, after which recertification is required in order to remain a COR or GTM for any contract or order."

OIG found that the two CORs assigned to oversee the two task orders in OIG's sample were both hired by AF based on their backgrounds and technical qualifications. One COR who oversaw three of the four active task orders associated with the AFRICAP contract we reviewed was a Civil Service Foreign Affairs Officer with a background related to Africa. He stated that he was selected for his position—a 1-year temporary assignment in the office responsible for the AFRICAP program—by applying for and then interviewing for the position. The COR for the fourth active task order was a U.S. Army officer with a military-political background who was detailed by DoD to the Department on a 3-year tour. Both CORs received their Level II certification under the prior FAC-COR system. One of the CORs received his certification on November 3, 2011, and will be required to recertify with an additional 40 hours of training by November 3, 2013. The other COR received his certification on August 3, 2012—just 5 days before the new FAC-COR certification requirements took effect—and will be required to recertify with an additional 40 hours of training by August 3, 2014.

To obtain a Level II certification under the revised system, the CORs for these task orders would still have needed the 40 hours of training that they obtained for certification before the system was revised. In addition to training, though, they would also have needed 12 months of COR activities and/or appointed experience before being eligible for Level II FAC-COR certifications. Since both CORs were grandfathered and therefore were not required to account for any prior COR activities and/or appointed experience at the time they received their certifications, OIG was unable to determine whether they had the necessary COR-related experience required under the revised FAC-COR certification system to enable them to

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effectively and efficiently monitor and evaluate contractor performance on their assigned contracts and task orders.

It is essential for AF to assign CORs who have not only the technical qualifications and training but also the required COR-related experience, as required by PIB 2012-15, to ensure proper contract administration and oversight by Government employees. Newly hired employees who have not had any prior COR-related experience cannot become FAC-COR certified immediately but instead must assist others with contract administration duties for a year before being eligible to obtain a FAC-COR certification at the same level as the current CORs for the task orders reviewed. To shorten the amount of time that must elapse before a newly hired employee can be assigned as a COR and to ensure seamless continuity of contract oversight when personnel changes occur, AF should require prior COR-related experience or a current FAC-COR certification issued by another Government agency if it is anticipated that an incoming employee or detailee will be responsible for COR duties.

**Recommendation 1.** OIG recommends that the Bureau of African Affairs require that incoming employees or detailees have prior contract oversight experience or a current Contracting Officer's Representative (COR) certification issued by another Government agency when filling positions with individuals expected to perform COR duties.

**Management Response:** AF concurred with the recommendation but did not provide any information regarding the manner in which it would implement the requirement.

**OIG Reply:** OIG considers the recommendation resolved. This recommendation can be closed when OIG reviews and accepts information from AF regarding the manner in which it would implement the recommendation.

### **Definition of Inherently Governmental Functions**

Federal Acquisition Regulation (FAR), Subpart 7.5, "Inherently Governmental Functions," FAR 37.114, "Special Acquisition Requirements," and OFPP Policy Letter 11-01 limit the kinds and types of services that contractors may perform on behalf of the Government. FAR 2.101, "Definitions," defines an inherently governmental function as "a function that is so intimately related to the public interest as to mandate performance by Government employees. . . and . . . includes activities that require either the exercise of discretion in applying Government authority, or the making of value judgments in making decisions for the Government." FAR 7.503 lists examples of functions considered to be inherently governmental or those which should be treated as such. Included in the list of examples is "administering contracts"<sup>11</sup> and "determining whether contract costs are reasonable, allocable, and allowable."<sup>12</sup>

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<sup>11</sup> FAR 7.503(c)(12)(v).

<sup>12</sup> FAR 7.503(c)(12)(vii).

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In addition, FAR 37.114, “Special Acquisition Requirements,” states the following:

Contracts for services which require the contractor to provide advice, opinions, recommendations, ideas, reports, analyses, or other work products have the potential for influencing the authority, accountability, and responsibilities of Government officials. These contracts require special management attention to ensure that they do not result in performance of inherently governmental functions by the contractor and that Government officials properly exercise their authority. Agencies must ensure that—(a) A sufficient number of qualified Government employees are assigned to oversee contractor activities, especially those that involve support of Government policy or decision making, and (b) A greater scrutiny and an appropriate enhanced degree of management oversight is exercised when contracting for functions that are not inherently governmental but closely support the performance of inherently governmental functions.

Moreover, OFPP Policy Letter 11-01 explains that the actions agencies should take in situations when they decide to contract for services related to inherently governmental functions:

[W]hen functions that generally are not considered to be inherently governmental approach being in that category because of the nature of the function and the risk that performance may impinge on Federal officials’ performance of an inherently governmental function, agencies must give special consideration to using Federal employees to perform these functions. If contractors are used to perform such work, agencies must give special management attention to contractors’ activities to guard against their expansion into inherently governmental functions.

**CORs Not Positioned To Oversee Contractor Performance in Africa**

DOSAR 642.270, “Contracting Officer’s Representative (COR),” states that COs “may designate technically qualified personnel as their authorized representatives to assist in the administration of contracts.” According to the FAH, a COR’s duties may include monitoring technical progress, receiving deliverables on behalf of the Government, and reviewing and approving contractor invoices. DOSAR 642.271, “Government Technical Monitor (GTM),” states that the CO may appoint a GTM to assist the COR in monitoring contractor performance for several reasons, to include the GTM’s physical proximity to the contractor’s work site.

However, AF had a relatively small number of FAC-COR certified employees to assign as CORs and GTMs. The AF manager who supervised the CORs who were responsible for the AFRICAP contract and task orders we reviewed acknowledged that he found it difficult to position CORs in Africa or to request the assignment of employees working at embassies in Africa as GTMs to monitor contractor performance. As a result, AF supplemented its CORs for the task orders in OIG’s sample with third-party contractors in Africa, referred to as “site coordinators.” The Washington-based CORs for the AFRICAP program stated that the site coordinators acted as their “eyes and ears” and were located in the countries where the activities

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associated with the contract and task orders occurred: Somalia, South Sudan, and the Democratic Republic of the Congo.

DOSAR 642.270 requires the CO to “prepare an appointment memorandum to outline the scope of the COR’s authority, including duties, responsibilities, and prohibitions.” The appointment memoranda that document this authority clearly state that the delegations of authority included in the memorandum are “not subject to re-delegation” by the COR.<sup>13</sup> However, as shown in Table 2, upon review of the COR’s delegated authorities and responsibilities for two of the task orders<sup>14</sup> in OIG’s sample against the duties and responsibilities of the site coordinator as documented in the statement of work that applied to the two task orders, OIG determined that the responsibilities were so similar in nature as to be inappropriately delegated.

**Table 2. COR Delegations Versus Site Coordinator Duties and Responsibilities**

<b>COR</b>	<b>Site Coordinator</b>
Coordinate with the contractor on all technical matters that may arise over the course of contract/task order administration.	Provide technical direction to the second-party contractor’s project and program managers as may be requested by the second-party contractor. Any and all such technical assistance and/or direction is required to be determined by the COR and relayed to the SC [Site Coordinator].
Monitor and inspect the contractor’s progress and performance to assure compliance with the contract/task order terms and conditions.	Monitor the second party contractor’s performance; monitor changes in the technical performance affecting personnel, the schedule, deliverables, and price or costs; and ensure that second-party contractor employees are performing all of the work under their contract.
Receive deliverables (supplies, services and/or reports) on behalf of the Government, and verify satisfactory delivery of contract/task order items and prepare receiving reports.	To the extent possible, inspect equipment, verify services, and provide reports (no later than 2 days following the inspection) to the COR; and provide a memorandum to the COR recommending the acceptance or rejection of equipment, supplies, and/or services, or any activity outlined in accordance with the terms of the second-party contractor’s contract.
Approve invoices for payment.	Assist in verifying the second-party contractor’s invoices and vouchers for factual identification of authorized expenditures.
Upon completion of the contract, prepare a statement of satisfactory performance or a statement of any deviations, shortages, or deficiencies.	Provide a memorandum (no later than 3 days following the observations) to the COR as to the state of completion of the work performed by the second-party contractors and grantees.

Sources: COR Delegation Memoranda for Task Order SAQMMA11F4665, Sept. 30, 2012, and Task Order SAQMMA10F4400, Mar. 18, 2013, and Statement of Work for Site Coordinator for the Democratic Republic of the Congo Military Assistance Programs.

<sup>13</sup> Only the CO can delegate responsibilities to a COR or a GTM.

<sup>14</sup> The COR delegation memoranda for both task orders contained the same delegated authorities and responsibilities.

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While the site coordinator's statement of work did state that the site coordinator "shall not be directly involved with any inherently governmental functions or military activities," the site coordinators responsibilities appeared to be [at least] "closely associated with" inherently governmental functions, if not [actually] inherently governmental. Since AF did not position CORs in Africa and the site coordinators were the only U.S. Government-affiliated individuals on the ground in Africa involved with reporting to the CORs about the contractors' performance or non-performance of the work required of them on the AFRICAP task orders, they were in a position to influence the CORs' authorities and responsibilities regarding the AFRICAP program. Further, the Department did not exercise "a greater scrutiny and an appropriate enhanced degree of management oversight" when contracting for these site coordinator functions, as required by FAR 37.114. Therefore, the lack of Department scrutiny and management oversight of the site coordinators' performance of COR support activities violates Federal regulations by allowing contractor performance of inherently Governmental functions.

### **Third-Party Contractors Conducted Invoice Reviews**

To fulfill another principal COR responsibility, that to review and approve invoices for payment, AF's CORs relied on the assistance not only of the site coordinators but also on two individuals, also contractors, working in AF's Washington-based office. AF officials described the invoice review process as follows: When an AFRICAP contractor submitted an invoice, one of the Washington-based contractors conducted a preliminary review to determine whether the invoice contained all of the information required under Department regulations, that the invoiced charges matched any supporting documentation provided, and that the invoiced charges were applied against the correct period of performance. If the invoice was incomplete, the Washington-based contractor returned it to the AFRICAP contractor with suggestions for revision. When an invoice was complete, the Washington-based contractor emailed the invoice to the site coordinator working in the country where the work occurred for feedback regarding whether the equipment or training shown on the invoice had actually been delivered. If the site coordinator had questions about the equipment or training, the site coordinator provided the questions to the Washington-based contractor, who, in turn, provided those questions to the AFRICAP contractor for resolution. Once all questions were resolved, the Washington-based contractor provided the invoice to the COR responsible for the related task order for his or her review. During interviews, the CORs for these task orders stated that they approved invoices for payment after resolving any final questions. OIG reviewed one randomly selected contractor invoice from February 2013. During an interview regarding his review of this invoice, the COR stated that he had relied on the assistance of one of the third-party contractors before approving the invoice.

As with the site coordinators, OIG found that the two third-party contractors assisting the CORs with invoice reviews were hired because of their particular experience; in this case, experience with contracting and accounting. According to one COR, the two Washington-based contractors provided valuable assistance without which he could not review and approve invoices timely. Although the FAR states that "routine voucher and invoice examination" is not an inherently governmental function, belonging in the category of "[t]he collection, control, and

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disbursement of fees, . . . and other public funds,”<sup>15</sup> the level of involvement of AF’s contractor personnel in the task of reviewing and approving invoices violated prohibitions against non-Government employees performing inherently governmental functions. Specifically, one of the Washington-based contractors who assisted with invoice reviews stated that he routinely determined whether contract costs were reasonable, allocable, and allowable, which is an inherently governmental function under the FAR.<sup>16</sup> While the CORs exercised the final approval over invoices before payment, the degree to which they relied on the Washington-based contractors to fulfill this important COR function increased the risk that an invoice could be approved improperly.

**Conclusion**

The AF official who supervised the CORs responsible for the AFRICAP task orders reviewed stated that his office employed contractors to assist the CORs with monitoring performance and reviewing invoices as a stopgap measure because they were unable to expand their Government staff sufficiently or quickly in a tight Federal budget environment. In such a budget environment, however, the need for contract monitoring is all the more important, as noted in the President’s March 4, 2009, memorandum on Government contracting.<sup>17</sup> The memorandum states that “it is essential that the Federal Government have the capacity to carry out robust and thorough management and oversight of its contracts in order to achieve programmatic goals, avoid significant overcharges, and curb wasteful spending.” To mitigate the risk and avoid violations of Federal regulations restricting contractors from performing inherently governmental, critical, or closely related functions, AF officials should stop using contractors to perform contract administration and oversight tasks. Instead, AF officials should explore all the hiring or appointment authorities available to them to place CORs or GTMs in the countries in which the AFRICAP contractors perform their work. Additionally, AF may choose to explore other funding mechanisms, to include the possible use of program funds to hire additional U.S. Government employees to perform AF’s inherently governmental, critical, or closely related functions.

**Recommendation 2.** OIG recommends that the Bureau of African Affairs not use contractors to perform contract administration and oversight tasks to avoid assigning inherently governmental, critical, or closely related functions to contractors, as prohibited by the Federal Acquisition Regulation.

**Management Response:** AF did not state whether it agreed or disagreed with the recommendation but agreed with challenges mentioned in the report. Specifically, CORs had less experience than required by current regulations, were not positioned in Africa, and were making significant and extensive use of third-party contractors (as site coordinators) to fulfill their contract oversight responsibilities. However, while AF acknowledged that using contractors in the role of site coordinators was not a best

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<sup>15</sup> FAR 7.503(c)(17)(ii).

<sup>16</sup> FAR 7.503(c)(12)(vii).

<sup>17</sup> Presidential Memorandum for the Heads of Executive Departments and Agencies, Subject: “Government Contracting,” March 4, 2009.

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practice, it asserted that this practice was not in violation of regulations requiring that Government employees carry out inherently governmental functions. AF concluded that the site coordinator served in an advisory-only capacity to the COR and assumed none of the COR's inherently governmental functions.

**OIG Reply:** OIG considers this recommendation unresolved. During fieldwork, one of the AF CORs we interviewed stated that he would be unable to do his job as a COR without the assistance of the contractors working as site coordinators in country as well as those reviewing invoices in Washington. The FAR definition for an inherently governmental function includes "the making of value judgments in making decisions for the Government." The CORs' reliance almost exclusively on third-party contractors to be their in-country "eyes and ears" significantly limits their ability to make truly independent decisions regarding a contractor's completion of the contracted work. Further, because of the fact that the CORs are positioned in Washington, DC, and the site coordinators are in Africa, the CORs are unable to "provide a greater scrutiny and an appropriate enhanced degree of management oversight" of site coordinators who are performing "functions that closely support the performance of inherently governmental functions," as required by the FAR.<sup>18</sup> OIG believes that AF's acceptance of what it considers a "less than ideal" practice places the Department at greater risk that the site coordinators may influence the authority, accountability, and responsibilities of Government officials, which would be a direct violation of the FAR.

OIG notes that AF's reliance on contractors to perform inherently governmental, critical, or closely related functions extended to drafting its response to our report. The FAR<sup>19</sup> clearly states that "the drafting of Congressional testimony, responses to Congressional correspondence, or *agency responses to audit reports from the Inspector General* [emphasis added], the Government Accountability Office, or other Federal audit entity," is an inherently governmental function. The last page of AF's comments, which can be reviewed in Appendix B, shows that a contractor (as OIG confirmed through the Department's Global Address List via Microsoft Outlook) drafted AF's response.

Therefore, OIG requests that AF reconsider its significant and extensive use of third-party contractors to enable CORs to fulfill their contract oversight responsibilities and provide additional comments to the recommendation in response to the final report.

**Recommendation 3.** OIG recommends that the Bureau of African Affairs explore all of the hiring, appointment, and funding authorities available to it for employing Government employees to perform contract administration and oversight tasks to avoid assigning inherently governmental, critical, or closely related functions to contractors, as prohibited by the Federal Acquisition Regulation.

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<sup>18</sup>FAR 37.114, "Special Acquisition Requirements."

<sup>19</sup>FAR 7.503(c)(20).

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**Management Response:** AF did not state whether it agreed or disagreed with the recommendation but noted that it “heretofore had lacked the ability to hire individuals on [p]ersonal [s]ervices [c]ontracts who could serve as GTMs overseas” and that “AF [p]osts have insufficient staffing to take on GTM responsibilities in[-]house.” AF added that “severe space and administrative constraints” would inhibit its ability to hire GTMs and noted that the closure or suspension of operations of embassies in some countries, including Somalia, inhibits its ability to oversee contracted activities. Also, AF believed that Recommendation 2 and Recommendation 3 should be combined and noted that it would provide more substantive comments regarding a combined recommendation when it received the report in final.

**OIG Reply:** OIG considers this recommendation unresolved. During fieldwork, we interviewed officials from the Bureau of Near Eastern Affairs who said that they had received a legal opinion from the Department’s Office of Legal Adviser that would allow it to hire individuals on personal services contracts for overseas requirements. We followed up with the Office of Legal Adviser about the Department’s authority for hiring PSCs for overseas requirements and were informed that the Department had “general authority” to enter into personal services contracts for services abroad. We shared this information with AF officials in June 2013 so that they could initiate action with the Office of Legal Adviser to explore whether this general authority would extend to AF. However, in its response, AF did not indicate what actions, if any, it had taken to explore the use of PSCs or other hiring flexibilities in meeting its contract oversight needs.

Further, OIG determined that combining Recommendations 2 and 3 would be inappropriate because they are meant to address two different aspects of a related, yet separate, matter. Therefore, OIG requests that AF reconsider its position on this recommendation and explore all of the hiring, appointment, and funding authorities available to it for employing Government employees to perform contract administration and oversight tasks and provide additional comments to the recommendation in response to the final report.

**Finding C. Department-Wide COR Workforce Management and Planning Needs Improvement**

OIG found that Department-wide COR workforce management and planning needs improvement. Specifically, the Department’s COR workforce was not sufficiently tracked and managed by the current FAC-COR online system, and the Department’s FY 2013 AHCP did not adequately plan for the Department’s future COR needs. These conditions occurred because the FAC-COR online system did not function as a true tracking or management tool. Although an A/OPE official acknowledged this, A/OPE officials still relied on information from that system, as well as on the projected COR needs from only four of the Department’s 37 bureaus, to capture the Department’s current COR workforce and anticipated future COR workforce needs. Without an accurate representation of the Department’s currently active COR workforce and a more accurate estimate of the number of CORs needed for future contracts, A/OPE will not have the information it needs for the Department to properly plan to meet its contract administration needs

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or for bureaus to address potential COR shortfalls with requests for additional staffing in budget submissions.

### **FAC-COR Online System**

The Department uses the FAC-COR online system to process FAC-COR applications by Government employees and to track the Department's certified CORs. The online application process requires FAC-COR certification applicants to enter identifying information (to include job title, bureau, grade level, contact information, and location); experience information commensurate with the level of FAC-COR certification sought; and completed training, to include certificates of completion, commensurate with the level of FAC-COR certification sought. Once the application is submitted, it is forwarded for supervisory approval and subsequently for approval by A/OPE.<sup>20</sup> Once the certification is approved, it is valid for 2 years, after which recertification is required in order to maintain COR status.

A/OPE stated in the Department's 2013 AHCP that the FAC-COR online system is a "management tool," which allows for the "tracking and management of CORs." While the FAC-COR online system is used by A/OPE to track its FAC-COR-certified CORs, OIG identified shortcomings with the FAC-COR online system as a management tool. Specifically, OIG determined that the system included employees who were FAC-COR certified but who were not necessarily performing COR-related duties. An A/OPE official subsequently acknowledged that the current system does not operate as a true management system, stating that the system does not contain information as to which contracts or task orders, if any, the individuals with FAC-COR certifications are assigned.

### **Department of Defense COR Tracking Tool**

OIG reviewed documentation associated with the DoD's COR Tracking (CORT) tool, which is a Web-based capability for the appointment and management of CORs. The CORT tool allows DoD to track which individuals are eligible for assignment as either a COR or a GTM, to include collecting COR training certificates, similar to A/OPE's FAC-COR online system. However, the CORT tool further implements the following COR management-related functions:

- Allows a prospective COR, COR management, and corresponding COs to electronically process the nomination and appointment of CORs for one or multiple contracts, to include workflows for the nomination process such as email alerts.
- Provides contracting personnel and requiring activities and/or COR management the means to track and manage COR assignments across multiple contracts DoD wide.
- Enables the posting of monthly status reports and includes workflows and status reminders for monthly status report due-ins and delinquencies.

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<sup>20</sup> If a COR or a GTM applicant is seeking a waiver for FAC-COR certification, the supervisor must approve the waiver, and if approved, the corresponding CO must also approve the waiver request. If both of these approvals are received, the waiver request will go to A/OPE for a final decision.

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During an interview with OIG team members, A/OPE officials stated that they were investigating the feasibility of expanding the current FAC-COR online system to capture some of the categories of information specified. Implementing a COR management system, possibly modeled from the DoD's CORT tool, would allow A/OPE officials to execute more efficient and effective tracking and management of CORs.

**Recommendation 4.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, enhance or replace the current Federal Acquisition Certification for Contracting Officer's Representatives online system to allow for improved management of Contracting Officer's Representatives and Government Technical Monitors. These enhancements could include nomination requests and delegation actions for specific contracts and task orders across the Department.

**Management Response:** A/OPE concurred with the recommendation, stating that it had modified the COR certification system to include a data element for contract assignment.

**OIG Reply:** OIG considers the recommendation resolved. This recommendation can be closed when OIG reviews and accepts documentation showing that A/OPE has revised the system to include the data element relating to contract assignment.

### **COR Acquisition Workforce Planning**

Bureau of Administration officials stated that A/OPE has the responsibility for conducting the Department's acquisition workforce planning efforts, in consultation with other offices and bureaus. A/OPE has been delegated the responsibility for preparing each year's AHCP for submission to the Office of Management and Budget (OMB).

Since 2010, OMB has required that each civilian agency covered by the Chief Financial Officers Act develop an AHCP and submit it to OMB by March 31 of each year through 2014.<sup>21</sup> OMB mandates that each agency's AHCP identify specific strategies and goals for increasing both the capacity and capability of the agency's acquisition workforce, including CORs. Additionally, OMB has required that agencies develop their target acquisition workforce profile; compare the target profile with their current workforce profile to determine gaps in capacity and capabilities; and establish recruitment goals, retention targets, and certification goals to address gaps.

A/OPE developed and submitted AHCPs to OMB to report the Department's then-current COR workforce and its estimated future COR needs in 2011, 2012, and 2013. In its FY 2013 AHCP submission for the Department, provided to OMB in March 2013, A/OPE reported that the actual number of certified CORs within the Department, as recorded in its FAC-COR online system as of September 30, 2012, was 1,912. Starting from this figure, A/OPE calculated the percentage increase in FAC-COR certified personnel from previous years and extrapolated that

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<sup>21</sup> OMB Memorandum, *Acquisition Workforce Development Strategic Plan for Civilian Agencies—FY 2010-2014*, Oct. 27, 2009.

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same percentage increase as to what would likely be needed for the following years. To assess the reasonableness of the estimate for the Department overall, A/OPE also obtained information from four Department bureaus—the Bureau of Diplomatic Security, OBO, INL, and NEA—about upcoming projects as well as those bureaus’ current COR workforce and projected COR staffing needs. As a result of this process, A/OPE officials determined that the Department would have to increase its COR workforce to 2,200 in FY 2013 and to 2,351 in FY 2014 and reported these numbers in their FY 2013 AHCP. An A/OPE official acknowledged, however, that estimating the number of CORs needed to meet the Department’s anticipated overall contract oversight and administration requirements was “not an exact science.”

Despite its intended use as an effective planning document, data in the AHCP did not accurately depict the Department’s COR workforce for the years designated or its estimated future needs for three main reasons. First, the personnel listed in the FAC-COR online system were FAC-COR certified and therefore were *eligible* for assignment as a COR. However, an A/OPE official acknowledged that the online system did not indicate who among those eligible CORs listed in the system were currently *assigned* as CORs, which was likely a smaller number than the number of employees who were eligible for assignment as a COR or GTM. For example, OBO’s submission to A/OPE for the FY 2013 AHCP stated that only 58 of its FAC-COR certified employees were actively working as CORs while “the balance of 295 OBO FAC-COR certified individuals are involved in planning, operations and maintenance, and support-related contracting activities” (that is, duties that are not COR specific to any assigned contracts or task orders). Second, the total number of FAC-COR certified individuals of 1,912 does not provide an accurate view of the Department’s current position, as some bureaus may have an excess number of CORs while others may not have enough CORs. However, one bureau’s CORs (such as OBO’s balance of 295 FAC-COR-certified individuals) cannot be cross-leveled to support another bureau’s COR shortages because one bureau’s CORs would not have the requisite technical expertise to understand the other bureau’s mission or contract requirements. Third, the four bureaus from which A/OPE obtained COR workforce planning information, while having the largest number of FAC-COR-certified individuals from among the Department’s 37 bureaus, accounted collectively for less than half (45 percent) of the Department’s total COR workforce.<sup>22</sup> The growth in the Department’s total number of FAC-COR-certified personnel over time and the growth in COR needs experienced by only a selection of the Department’s bureaus may not accurately represent the future growth in the Department’s contract administration requirements, which could lead to inaccurate estimates for the number of CORs needed to oversee Department contracts.

Additionally, a May 2013 OIG audit report<sup>23</sup> found that although the AHCP was useful for external users to understand procurement-related staffing levels, “it is not sufficient to take the place of a well-designed staffing plan.” The May 2013 OIG report noted that the AHCP “focused on actual staff on board and anticipated staff that would be coming on board in the

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<sup>22</sup> Of the 2,086 personnel listed in the FAC-COR online system as of June 2013, only 939 were from the four bureaus from which A/OPE obtained information.

<sup>23</sup> *Audit of Department of State Application of the Procurement Fee To Accomplish Key Goals of Procurement Services* (AUD-FM-13-29, May 2013).

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upcoming fiscal year rather than assessing the overall needs of the organization, including the types of abilities needed to ensure the procurement services provided were sufficient.”

Without an accurate estimate of the number of CORs needed to handle administration and oversight tasks for future contracts for all of the Department’s bureaus, the Department cannot adequately plan to meet its future contract administration responsibilities. Also, without better integration of those anticipated needs with Department budget requests for training and hiring, as required by OMB, it is likely that those needs will not be adequately met.

**Recommendation 5.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, implement a more robust Contracting Officer Representative (COR) workforce planning effort by identifying the appropriate number of CORs and Government Technical Monitors needed by each bureau in the annual Acquisition Human Capital Plan to ensure an accurate representation of COR workforce needs for the management, tracking, and budgeting purposes.

**Management Response:** A/OPE concurred with the recommendation, stating that it would request information from all bureaus when preparing its Acquisition Workforce Human Capital Plan.

**OIG Reply:** OIG considers the recommendation resolved. This recommendation can be closed when OIG reviews and accepts documentation showing that A/OPE has requested information from all bureaus regarding their COR workforce and projected COR staffing needs.

### **Finding D. Department COR-Specific Policies Need Implementation Guidance**

OIG found that bureau officials did not always provide COR and GTM nomination memoranda to COs; that COs were unaware of the manner in which they should vet COR and GTM nominees; that responsibilities were included in the performance evaluation factors for some, but not all, of the employees executing COR and GTM duties; and that supervisors of CORs and GTMs were unaware of the manner in which they should solicit CO input regarding affected employees’ performance of contract administration responsibilities. These conditions occurred for the following reasons: (1) A/OPE did not provide guidance for what should be included in COR and GTM nomination memoranda or provide implementation guidance for the review and approval of COR and GTM nominees, (2) A/OPE and the Director General of the Foreign Service and Director of Human Resources (DGHR) did not develop a policy for how CORs and GTMs who were other than Civil Service or Foreign Service would be evaluated, (3) A/OPE and DGHR did not have a means to determine whether supervisors had included contract administration responsibilities in affected employees’ performance evaluation factors as required, and (4) A/OPE and DGHR did not specify procedures for supervisors of CORs and GTMs to solicit and include CO input regarding employee performance of their contract administration responsibilities. Because of these shortfalls, COs could inadvertently delegate contract administration duties to individuals who, while FAC-COR certified, did not have the

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technical qualifications or responsibility to adequately oversee contractor performance. Moreover, if CORs and GTMs are not held accountable for successful fulfillment of their assigned contract administration responsibilities through annual reviews, with CO input regarding their effectiveness in performing these duties, individuals assigned as CORs and GTMs may not perform these duties in a timely and efficient manner. Either circumstance could lead to poor contracting outcomes and misspent funds.

### **Nominating and Vetting CORs and GTMs**

The FAH<sup>24</sup> requires that bureau officials nominate, in writing, “technically qualified, responsible, and certified” individuals to be CORs and GTMs. The DOSAR<sup>25</sup> also states that the “COR shall be named in the procurement request submitted to initiate the procurement action and shall be accompanied by a nomination using” a nomination memorandum. However, officials in two of the four bureaus responsible for monitoring the contracts and task orders reviewed did not provide COs with nomination memoranda when nominating CORs and GTMs.

Further, the FAH<sup>26</sup> states that a CO should appoint the COR as soon as a requirement is initiated, if possible. In addition, PIB 2012-15 states, “When appointing CORs or GTMs, Contracting Officers (COs) must choose the appropriate level of certification during the acquisition planning phase of any given procurement.”<sup>27</sup> To assist COs with this determination, the PIB contained an appendix describing the FAC-COR certification levels and the types of contracts that a COR or a GTM who has been certified at a particular level should be assigned. However, A/LM/AQM COs stated that whether or not they received nomination memoranda or packages, they were not aware of what, if anything, they were supposed to do with the information they were provided to ensure a nominee’s technical competence and were not aware of how to apply information in the PIB appendix to appropriately determine what level of certification a COR should have. The COs stated that prior to assigning a COR or a GTM, they checked A/OPE’s FAC-COR online system to determine whether the nominee had an active FAC-COR certification but that that action was the extent of their vetting procedures. COs acknowledged that they relied on bureau officials to select and nominate appropriate individuals to be CORs, stating that in general, they would not feel comfortable rejecting a bureau’s COR or GTM nominee unless the nominee did not have the appropriate level of FAC-COR certification required for the contract.

Information about the COR and GTM nomination and vetting processes for the four contracts reviewed are explained in the sections that follow.

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<sup>24</sup> 14 FAH-2 H-143.2, “COR Appointment Procedures.”

<sup>25</sup> DOSAR 642.270, “Contracting Officer’s Representative (COR).”

<sup>26</sup> 14 FAH-2 H-142, “Responsibilities of the Contracting Officer’s Representative (COR).”

<sup>27</sup> PIB 2015-15 Reference Document I, “Frequently Asked Questions (FAQs) Regarding COR and GTM Requirements.”

### **OBO NEC Contract in Jakarta**

OBO officials provided the A/LM/AQM CO responsible for the Jakarta NEC contract with nomination memoranda outlining the background and experience of the COR and Alternate COR nominees, both of whom had Level III FAC-COR certifications. The nomination package also included a summary of each nominee's assignment and training history, all of which provided the CO with the information needed to make an informed decision about COR delegation. According to OBO officials, OBO selected project leaders through a competitive bidding process<sup>28</sup> used by employees working in the OBO-specific Foreign Service construction engineering skill code. Once selected for their assignments, OBO nominated these employees for appointment as CORs and Alternate CORs for the projects to which they were assigned. While OBO officials for this contract provided nomination memoranda and additional supporting materials regarding COR and Alternate COR nominee backgrounds, an A/LM/AQM official stated that she simply approved the nominees after checking the FAC-COR online system to verify that the nominees' were FAC-COR certified, regardless of their certification levels and technical qualifications noted in the nomination package.

### **NEA Medical Support Services Contract in Iraq**

A/LM/AQM officials stated that they did not receive COR nomination memoranda from the NEA officials responsible for this program. Despite the lack of formal nomination materials, AQM officials appointed both of the individuals that NEA officials nominated for COR and Alternate COR assignments. With respect to selection, according to documents provided by NEA officials, the COR and the Alternate COR were both hired by the Department specifically to fill the positions they occupied, with primary responsibilities for overseeing contracts in Iraq, under a legal provision that allowed them to hire temporary employees for short-term requirements.<sup>29</sup> However, without this knowledge, A/LM/AQM COs would not have had the information needed to determine whether the individuals nominated to conduct contract administration and oversight were technically competent.

### **INL Air Wing Contract**

INL officials sent brief memoranda to the A/LM/AQM CO responsible for the INL Air Wing contract to nominate the contract oversight personnel for that contract. The memoranda included the names and positions of the nominees but did not contain any information regarding the nominees' backgrounds, training, or technical expertise. According to INL officials, the COR and the Alternate COR were Civil Service employees who were selected for their roles primarily because of their aviation experience. The COR stated that he had worked as a GTM on this contract for a number of years in Colombia before being hired as a Civil Service employee.

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<sup>28</sup> OBO's CORs are Foreign Service employees who submit bids for specific assignments and are selected for these assignments based on their background and qualifications.

<sup>29</sup> The temporary employees were "3161s," which, according to Title 5, Section 3161, of the U.S. Code, are persons appointed to positions of employment in a temporary organization in such numbers and with such skills as are necessary for the performance of the functions required of a temporary organization, typically not to exceed three years.

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As for the GTMs, INL has the authority to hire individuals under personal services contracts (PSC)<sup>30</sup> and has used that authority to hire GTMs to work at the program office in Florida and at the overseas locations where the contractor performs work under this contract. One INL official stated that, for the INL Air Wing contract, they hire PSCs as GTMs specifically because of their expertise. Another INL official noted that GTMs, whether hired as Civil Service employees, PSCs, or in some other capacity, are given duties that relate only to oversight of the Air Wing task orders being performed at the location to which they are assigned.

Again, the CO stated that for the INL Air Wing contract, he simply checked the FAC-COR online system to ensure that the nominees had the appropriate certifications. During his check, the CO stated that he found that some GTM nominees had not yet received the appropriate level of FAC-COR certification from A/OPE and that in those instances, he declined to delegate GTM responsibilities to the nominee until he or she had obtained a FAC-COR certification at the appropriate level. Regardless, the CO did not have the information needed to determine, via nomination memoranda, whether technically qualified individuals were nominated.

### **AF AFRICAP Contract**

AF officials did not use memoranda to nominate the CORs for the AFRICAP task orders reviewed. Instead, according to an A/LM/AQM official, they included the name of the individual they were nominating to be the COR in the documents they provided to the A/LM/AQM CO when they requested that a new task order be issued. AF selected those individuals to be CORs because their positions within AF required that they monitor and coordinate a portfolio of ongoing security-related activities in a specific region of Sub-Saharan Africa. One COR was responsible for monitoring activities in Central Africa, including South Sudan and the Democratic Republic of the Congo, where three of the four task orders reviewed were executed. The fourth task order related to providing equipment and training to forces operating in Somalia, and this task order fell under the purview of the second COR, who had responsibility for East Africa.

As mentioned for the NEA and INL contracts, the CO for the AF task orders was not informed through an appropriate nomination process as to whether the nominated CORs were technically qualified, responsible, and certified to effectively and efficiently execute their COR responsibilities. Further, the CO did not make a determination as to whether having Level II CORs was the appropriate certification level to execute proper oversight of the AFRICAP contract task orders.

**Recommendation 6.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, develop and issue guidance specifying the types of information that bureau officials should document in Contracting Officer's Representative and Government Technical Monitor nomination memoranda regarding a nominee's training,

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<sup>30</sup> A PSC is an employer-employee relationship contract created between the Government and the contractor. For purposes of this definition, the PSC is used as an employment mechanism for individuals abroad under Section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. § 2669(c)).

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experience, and technical qualifications to ensure implementation of Department of State Acquisition Regulations and *Foreign Affairs Handbook* nomination requirements.

**Management Response:** A/OPE did not state whether it agreed or disagreed with the recommendation but instead requested clarification on the recommendation. A/OPE commented that it has a sample nomination memorandum [available on A/OPE's Intranet site] that requires the nominating office to detail training, technical qualifications and experience, including dates and types of work performed by the COR. A/OPE further commented that the information in the sample nomination memorandum is the same as that cited in the report for OBO nominations, which A/OPE noted auditors had found sufficient for the contracting officer to approve the COR's appointment.

**OIG Reply:** OIG considers this recommendation unresolved. We agree with A/OPE that OBO had the most complete and useful nomination memorandum compared to those memoranda reviewed from the other three bureaus included in our review: INL, AF, and NEA. However, the officials we interviewed at those three bureaus were unaware of the details that they needed to provide to the A/LM/AQM COs to document a nominee's training, qualifications, and experience. Additionally, upon further review of the sample COR nomination format, OIG believes that it is not descriptive in nature and does not provide the detailed guidance that a program official would need to ensure that they are providing the CO with pertinent information so that one can make an informed decision about the nomination and appointment of a COR. As a result, OIG requests that A/OPE reconsider its position on this recommendation to develop and issue guidance specifying the types of information that bureau officials should document in COR and GTM nomination memoranda regarding a nominee's training, experience, and technical qualifications, and provide additional comments to the recommendation in response to the final report.

**Recommendation 7.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, provide periodic training to Contracting Officers that covers how they should make a determination of the appropriate level of certification required for particular contracts during the planning phase of acquisitions, and also how they should document those determinations to ensure implementation of Procurement Information Bulletin 2012-15.

**Management Response:** A/OPE disagreed with the draft recommendation, stating that it did not want to substitute additional criteria for CO judgment, but instead wanted COs to be provided with latitude to determine an appropriate level of certification. A/OPE further stated that it would work with A/LM/AQM to ensure that COs understood the current criteria for how to make a determination on the appropriate level of COR certification required for contracts.

**OIG Reply:** OIG considered A/OPE's comments and revised Recommendation 7 to request that A/OPE provide periodic training to COs for how certification level determinations should be made and documented, rather than developing and issuing

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policy. OIG requests that A/OPE provide additional comments to the final report indicating whether it concurs or does not concur with the revised recommendation, after which OIG will determine whether the recommendation is resolved or unresolved.

### **COR and GTM Performance Evaluations**

A/OPE and DGHR jointly issued Department Notices in January and April 2011 regarding the inclusion of COR and GTM responsibilities in the performance evaluation factors for affected employees. The January 2011 Department Notice said that supervisors with employees who function as CORs or GTMs should include such functions in the employee's performance evaluation factors. The April 2011 Department Notice reminded supervisors of the January 2011 Department Notice and provided specific language that supervisors could use when inserting COR and GTM responsibilities into an affected employee's rating elements.

The bureaus associated with the four contracts reviewed used a wide range of hiring authorities available to them in selecting individuals to serve as CORs and GTMs. The CORs and GTMs for the contracts reviewed were Civil Service employees, Foreign Service specialists, temporary Government employees hired under Section 3161 authority,<sup>31</sup> a military officer on detail from the DoD, and PSCs. While the relevant Department Notices stated that supervisors of Civil Service and Foreign Service employees should insert COR and GTM responsibilities into affected employees' performance standards, neither Department Notice addressed the manner in which employees on detail from other departments, other temporary employees, or PSCs should be held accountable for any contract administration responsibilities they are assigned.

Further, regardless of the manner in which a COR or GTM was hired, neither A/OPE nor DGHR had any means to follow up on the 2011 Department Notices to determine the extent of policy compliance Department-wide. During an interview, an A/OPE official stated that the FAC-COR online system did not track whether a FAC-COR certified individual was actually assigned as a COR or GTM. With respect to DGHR, OIG queried the bureau's Executive Director about whether they had any information available regarding the number of Department employees who were assigned as either a COR or GTM. He replied simply that their "system does not have the ability to generate the information [OIG] requested." Without the capability to track compliance, it is difficult for either A/OPE or DGHR to gauge the effectiveness of these Department Notices or the extent of implementation of the policies reflected by the notices.

The COR performance evaluation factors OIG found for the CORs and the GTMs assigned to each of the four contracts reviewed are as summarized below.

#### **OBO NEC Contract in Jakarta**

For the contract to construct a new U.S. Embassy in Jakarta, Indonesia, both the COR and the Alternate COR were Foreign Service specialists in the OBO-managed construction

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<sup>31</sup> 5 U.S.C. § 3161.

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engineering skill code. All of the responsibilities contained in the COR's work elements related to COR work. Although many of the work elements did not include the specific language from the April 2011 Department Notice, the work elements did address COR-specific duties. For example, the elements stated that the COR must do all of the following:

- Develop and manage a quality assurance program to ensure that all construction work is performed in accordance with the contract.
- Ensure that contractors develop and maintain project schedules for completion.
- Develop and implement procedures for maintaining internal control of Government funds.

### **NEA Medical Support Services Contract in Iraq**

For the contract to provide medical support services to U.S. Government employees and contractors in Iraq, the COR and the Alternate COR were both Civil Service employees who had been hired to perform contract administration duties under the Department's Section 3161 temporary hiring authority. According to NEA officials, Section 3161 employees were not required to have formal annual reviews similar to those of regular Civil Service employees. However, because the contracts for Section 3161 employees were renewed annually, NEA had to decide whether to extend the employees' employment for another term. Therefore, even though there was not specific guidance as to how Section 3161 temporary hires should be held accountable for any contract administration responsibilities they performed, they were in essence evaluated, as a lack of adequate performance of their contract administration duties would lead to their terms of employment not being renewed.

### **INL Air Wing Contract**

For the contract to provide air wing support services for INL, the COR and the Alternate COR were Civil Service employees who had their COR-specific duties included in their performance evaluation elements. For example, INL officials, in a July 2, 2013, email to OIG, stated that one such COR-specific performance evaluation element for 2013 was as follows:

Develops and maintains systems to evaluate and monitor contractual performance related to delivery of contract items, efficient and satisfactory performance of work, effective use of Government-furnished property, scheduling, and usage of facilities, compliance with terms and conditions of the contract, and amount of progress or advance payments.

The Alternate COR stated that the GTMs assigned to the INL Air Wing contract were PSCs. He further stated that even though there was not a specific requirement to evaluate PSCs, he evaluated the GTMs by the standards listed within their contracts' statements of work. Another INL official noted that the statements of work were specific to performing GTM duties—meaning that any substandard annual rating or poor interim review could result in the GTMs' contracts being terminated or not being renewed.

### **AF AFRICAP Contract**

For the contract to support peacekeeping operations in Africa, one COR was a Civil Service employee on a 1-year detail from another office to fill a temporary vacancy created while the prior COR was on a leave of absence. The prior COR's rating elements included specific COR-related duties, including "review[ing] contracts on a weekly basis to ensure that contractors meet [the] scope of work commitments" and "review[ing] and approv[ing] contractor invoices" within a week of receipt. The other COR was a U.S. Army officer on a 3-year assignment from the DoD. He stated that his annual review and rating elements were mandated by the manner in which his position was structured by virtue of the agreement between the DoD and the Department. He forwarded an excerpt from his position description, which required that he "[m]anage the Department's security sector reform program in [E]ast Africa and an annual peacekeeping operations budget of more than \$51 million." However, his performance evaluation factors did not specifically mention his contract administration responsibilities.

### **CO Input for Annual COR Performance Evaluations**

In addition to requiring that supervisors of CORs and GTMs include contract administration responsibilities in performance evaluation factors, the January 2011 Department Notice also stated that supervisors of both Civil Service and Foreign Service employees "should seek input from the CO who appointed the COR or GTM on the adequacy of COR or GTM work performance."

During interviews with supervisors of CORs, OIG learned that each of the Civil Service and Foreign Service employees assigned as CORs on the contracts and task orders OIG reviewed received annual performance reviews that included discussions of their contract administration responsibilities. However, these same supervisors stated that they had not sought input from COs on COR and GTM performance and, at most, had only received "informal feedback" from COs during interactions throughout the year. The COs for the contracts and task orders reviewed stated that CO input into COR and GTM performance evaluations would be beneficial.

The supervisors of the employees in other employment categories, such as temporary employees and the PSCs, stated that some, but not all, of these employees received annual reviews, which may have included a review of contract performance as part of a contract renewal process. But, similar to Civil Service and Foreign Service employees, none of the supervisors of the temporary employees or PSCs said that they had received written feedback from COs on their employees' contract administration performance during the annual review process.

### **Conclusion**

The inconsistent manner in which the Department Notices related to evaluating the performance of CORs and GTMs were implemented occurred for three reasons. First, neither A/OPE nor DGHR, both of which co-authored the Department Notices, had the means to follow up on whether the requirements in the Department Notices were implemented. Second, neither of the relevant Department Notices addressed the manner in which the CORs and the GTMs who

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were not Civil Service and Foreign Service employees, such as if they were PSCs, should be held accountable for the completion of their assigned contract administration duties. Third, neither of the relevant Department Notices addressed the manner in which supervisors of affected employees should obtain feedback from COs regarding the employees' performance of assigned COR or GTM responsibilities. The Department Notices were meant to enhance accountability among employees performing critical contract administration functions, yet incomplete or uncertain implementation made their policy guidance significantly less effective.

**Recommendation 8.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, in coordination with the Director General of the Foreign Service and Director of Human Resources, develop a method of tracking the requirement for Contracting Officer's Representative-specific responsibilities to be included in job performance elements of affected employees to ensure implementation of the Department Notices.

**Management Response:** A/OPE agreed with the recommendation, stating that it recognized the need to continue to evaluate compliance with the requirement, and planned to select a judgmental sample of CORs on a periodic basis to validate that relevant work elements are included in performance appraisals.

**OIG Reply:** OIG considers the recommendation resolved. This recommendation can be closed when OIG reviews and accepts documentation showing how A/OPE periodically validated that relevant work elements were included in performance appraisals of a judgmental sample of CORs.

**Recommendation 9.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, in coordination with the Director General of the Foreign Service and Director of Human Resources, establish guidelines to standardize the manner in which supervisors should hold individuals other than Civil Service or Foreign Service employees assigned as Contracting Officer's Representatives and Government Technical Monitors accountable for their performance in those positions.

**Management Response:** A/OPE did not state whether it agreed or disagreed with the recommendation but requested that any such recommendations for changing the way any CORs who are not members of the Civil Service or Foreign Service be evaluated should be directed to the Director General of the Foreign Service and Director of Human Resources (DGHR).

**OIG Reply:** OIG considers this recommendation unresolved, and did not revise the recommendation per A/OPE's request. As noted in the report, this recommendation is meant to address requirements contained in Department Notices that were jointly issued by A/OPE and DGHR to mandate performance evaluations of COR-specific duties for Civil Service or Foreign Service personnel but which do not address other personnel categories such as detailees from other agencies, PSCs, or employees hired under 3161 authority. We request that A/OPE reconsider its position on this recommendation to

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coordinate with DGHR in mandating that performance evaluations for such personnel categories also include COR-specific duties and provide additional comments to the recommendation in response to the final report.

**Recommendation 10.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, in coordination with the Director General of the Foreign Service and Director of Human Resources, establish guidelines to standardize the manner in which supervisors of Contracting Officer's Representatives and Government Technical Monitors obtain feedback from Contracting Officers regarding employee performance and incorporate this feedback into performance evaluations for affected employees.

**Management Response:** A/OPE did not state whether it agreed or disagreed with the recommendation but instead stated that it would add a requirement for supervisors of employees with COR work commitments to obtain feedback via email or telephone discussion from COs when drafting performance appraisals. A/OPE further noted that it would advise bureaus using resources such as PSCs to also obtain CO feedback.

**OIG Reply:** OIG considers the recommendation resolved. This recommendation can be closed when OIG reviews and accepts documentation validating that A/OPE has communicated and/or documented a requirement for supervisors of employees with COR work commitments to obtain feedback from COs when drafting performance appraisals and also that it has advised bureaus using resources such as PSCs to obtain CO feedback.

## **List of Recommendations**

**Recommendation 1.** OIG recommends that the Bureau of African Affairs require that incoming employees or detailees have prior contract oversight experience or a current Contracting Officer's Representative (COR) certification issued by another Government agency when filling positions with individuals expected to perform COR duties.

**Recommendation 2.** OIG recommends that the Bureau of African Affairs not use contractors to perform contract administration and oversight tasks to avoid assigning inherently governmental, critical, or closely related functions to contractors, as prohibited by the Federal Acquisition Regulation.

**Recommendation 3.** OIG recommends that the Bureau of African Affairs explore all of the hiring, appointment, and funding authorities available to it for employing Government employees to perform contract administration and oversight tasks to avoid assigning inherently governmental, critical, or closely related functions to contractors, as prohibited by the Federal Acquisition Regulation.

**Recommendation 4.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, enhance or replace the current Federal Acquisition Certification for Contracting Officer's Representatives online system to allow for improved management of Contracting Officer's Representatives and Government Technical Monitors. These enhancements could include nomination requests and delegation actions for specific contracts and task orders across the Department.

**Recommendation 5.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, implement a more robust Contracting Officer Representative (COR) workforce planning effort by identifying the appropriate number of CORs and Government Technical Monitors needed by each bureau in the annual Acquisition Human Capital Plan to ensure an accurate representation of COR workforce needs for the management, tracking, and budgeting purposes.

**Recommendation 6.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, develop and issue guidance specifying the types of information that bureau officials should document in Contracting Officer's Representative and Government Technical Monitor nomination memoranda regarding a nominee's training, experience, and technical qualifications to ensure implementation of Department of State Acquisition Regulations and *Foreign Affairs Handbook* nomination requirements.

**Recommendation 7.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, provide periodic training to Contracting Officers that covers how they should make a determination of the appropriate level of certification required for particular contracts during the planning phase of acquisitions, and also how they should document those determinations to ensure implementation of Procurement Information Bulletin 2012-15.

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**Recommendation 8.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, in coordination with the Director General of the Foreign Service and Director of Human Resources, develop a method of tracking the requirement for Contracting Officer's Representative-specific responsibilities to be included in job performance elements of affected employees to ensure implementation of the Department Notices.

**Recommendation 9.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, in coordination with the Director General of the Foreign Service and Director of Human Resources, establish guidelines to standardize the manner in which supervisors should hold individuals other than Civil Service or Foreign Service employees assigned as Contracting Officer's Representatives and Government Technical Monitors accountable for their performance in those positions.

**Recommendation 10.** OIG recommends that the Bureau of Administration, Office of the Procurement Executive, in coordination with the Director General of the Foreign Service and Director of Human Resources, establish guidelines to standardize the manner in which supervisors of Contracting Officer's Representatives and Government Technical Monitors obtain feedback from Contracting Officers regarding employee performance and incorporate this feedback into performance evaluations for affected employees.

## **Scope and Methodology**

The Office of Inspector General (OIG), Office of Audits, performed fieldwork from February to July 2013 at the Department of State (Department) Bureau of Administration, Bureau of African Affairs, Bureau of International Narcotics and Law Enforcement Affairs, Bureau of Near Eastern Affairs, and Bureau of Overseas Buildings Operations.

OIG conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objective. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objective.

OIG interviewed Contracting Officer's Representatives (COR), Contracting Officers (CO), and bureau officials and reviewed documentation to support statements made in interviews, including Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR) certificates, COR and Government Technical Monitor (GTM) nomination and delegation memoranda, documents contained in the contract and task order files, invoices, site visit or contractor evaluation reports, and other documents that provided evidence of COR and GTM oversight.

As part of its audit methodology, OIG interviewed officials from the Bureau of Administration, Office of the Procurement Executive (A/OPE), and obtained Department-wide information from A/OPE and other bureaus to discern the extent to which these offices had accomplished any Department-wide efforts to improve the Department's management of its COR and GTM workforce or plan for anticipated staffing needs.

### **Work Related to Internal Controls**

OIG performed steps to assess the adequacy of internal controls related to the areas audited. For example, OIG reviewed the COR nomination process for the four contracts in its sample to assess whether the Department appropriately selected CORs and GTMs to conduct contract administration and oversight. OIG also reviewed Department guidance, policies and procedures, and related controls to ensure that such guidance and policies and procedures were being implemented and followed by bureau officials, CORs, and COs. Significant deficiencies OIG identified are presented in the audit report.

### **Prior OIG Reports**

Between 2009 and 2011, OIG issued four audit and inspection reports related to OIG's audit objective to determine the extent to which the Department's CORs and GTMs were selected and positioned to successfully perform their assigned contract administration and oversight responsibilities. All four reports discussed COR-related deficiencies. Specifically, two

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of those reports<sup>1</sup> found that CORs had approved contractor invoices for payment without adequate review or no review. The third report<sup>2</sup> found various deficiencies in COR and GTM oversight and monitoring. The fourth report<sup>3</sup> found that there were not enough CORs within the Bureau of African Affairs, Office of Regional and Security Affairs, to effectively administer a particular program's contracts. To address that deficiency, OIG recommended that AF hire at least five additional full-time direct-hire employees with contracting skills to serve as program managers and CORs in the Office of Regional and Security Affairs.

### **Use of Computer-Processed Data**

OIG used computer-processed data to select its sample of four large contracts but did not use computer-processed data to evaluate COR and GTM selection and positioning.

### **Detailed Sampling Methodology**

OIG selected four contracts for review using a non-statistical sampling method known as "judgment sampling." Because this method uses discretionary criteria to effect sample selection, OIG was able to use information gathered during its preliminary work to aid in making informed selections. In selecting which contracts to review, OIG sought high-value contracts relating to programs managed by a variety of bureaus; obtained suggestions from each of the four procurement division directors from the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM); and sought to avoid contracts and programs that had been or would soon be subject to review by other OIG audit teams.

OIG decided initially to limit its sample selection to those contracts awarded by A/LM/AQM. Most domestic offices have limited procurement authority and rely on A/LM/AQM for the majority of their procurement support, as do the Department's overseas posts, which generally may only award contracts valued at or below \$250,000. A/LM/AQM's four major acquisition divisions—Facilities Design and Construction, Worldwide Operations, International Programs, and Information Technology—were organized to serve various regional and functional bureaus within the Department. Organizing OIG's selection in this way allowed OIG to achieve a measure of diversity in its sample selection.

OIG requested and received information from A/LM/AQM regarding the 10 contracts under the purview each of AQM's four acquisition divisions that had the highest amount of funding obligated during FYs 2010-2012. Using this information, in consultation with the directors of each of the acquisition divisions, we judgmentally selected one contract from each

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<sup>1</sup> *DoD and DOS Need Better Procedures to Monitor and Expend DoD Funds for the Afghan National Police Training Program* (DOS Report AUD/CG-11-30, July 2011) and *Performance Evaluation of PAE Operations and Maintenance Support for the Bureau of International Narcotics and Law Enforcement Affairs' Counternarcotics Compounds in Afghanistan* (MERO-I-11-02, Feb. 2011).

<sup>2</sup> *Audit of Allegations Pertaining to Contract With DynCorp International for the Security Sector Transformation Project in South Sudan, Africa* (AUD/SI-10-23, Aug. 2010)

<sup>3</sup> *Inspection of the Bureau of African Affairs* (ISP-I-09-63, Aug. 2009)

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division for review. The 40 contracts from which we made our selections had total obligations, during FYs 2010–2012, of \$9.45 billion.

A prime consideration in selecting the four contracts for review was their relatively high value, in comparison to other contracts, for each of A/LM/AQM’s four major acquisition divisions. Selecting high-value contracts was important because the potential effects of inadequate contract administration—wasted taxpayer funds and substandard program outcomes—were commensurately larger with such contracts.

With the considerations cited in mind, the audit team also obtained input from the directors of A/LM/AQM’s four major acquisition divisions. During interviews with these individuals, the audit team sought to obtain information about contracts that had had contract administration deficiencies for which CORs were responsible or at least had the potential to be subjected to such deficiencies because of the contracts’ size, complexity, and/or places of performance. Such contracts would represent higher risk efforts that could better benefit from OIG scrutiny and subsequent recommendations to correct any deficiencies OIG identified.

The four contracts OIG selected for review based on the considerations presented are described in Table 1.

**Table 1. Contracts Selected by OIG for Review**

<b>Contract Number</b>	<b>Obligations for FYs 2010–2012</b>	<b>Contractor</b>	<b>Bureau</b>	<b>Purpose</b>
SAQMPPD05C1103	\$1,236,111,855	DynCorp International, LLC	INL	Aviation support services
SAQMMA12C0232	\$302,434,350	BL Harbert International, LLC	OBO	New Embassy Compound (Jakarta)
SAQMMA09D0082	\$103,865,007	AECOM Government Services, Inc.	AF	Military training and logistics
SAQMMA11D0073	\$136,307,013	CHS Middle East, LLC	NEA	Health care services

Source: OIG analysis of A/LM/AQM data.

**Bureau of African Affairs Response**



United States Department of State

Washington, D.C. 20520

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MEMORANDUM

DEC 9 2011

TO: OIG/AUD – Norman P. Brown, Acting

FROM: AF – Robert P. Jackson, Acting *RJ*

SUBJECT: *Comments on Draft Report on Audit of Department of State Selection and Positioning of Contracting Officer's Representatives*

Thank you for the opportunity to review the subject report. Our comments on Finding B and recommendations 1-3 are below.

**Africa Bureau Comments on Findings:**

Finding B is that “Challenges Existed With COR Experience, Positioning, and Oversight Within the Bureau of African Affairs.” The Bureau agrees that challenges existed. We also agree with the subsidiary findings: that our CORs were technically qualified to be appointed COR at the time but had less experience than current regulations require; that they were not positioned in Africa; and that CORs made extensive and significant use of third party contractors to enable them to fulfill their contract oversight responsibilities. However, the Africa Bureau does not agree that this “resulted in third-party contractors’ performing inherently governmental functions.”

The Reports identifies two sets of activities where it believes contractors were performing inherently governmental functions, in the assignment of contract employees as site coordinators and in using contract employees to perform invoice reviews.

The Bureau believes that use of Site Coordinators is not a best practice, but that it is not in violation of regulations requiring that only government employees carry out inherently governmental functions. The vast majority of AF/RSA contract work takes place on the African continent. On-site monitoring is necessary and a best practice would rely on Government Technical Monitors (GTMs) to provide that capability. However, the AF Bureau has heretofore lacked the ability to hire

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individuals on Personal Services Contracts who could serve as GTMs overseas, and AF Posts have insufficient staffing to take on GTM responsibilities in house. Even if the Bureau had PSC hiring authority, in some countries severe space and administrative constraints would inhibit our ability to hire GTMs, and in other countries, such as Somalia and CAR, insecurity resulting in Post closures and restrictive travel bans would force the Bureau to rely on contractors, rather than government employees, to monitor on-site activities.

Under these circumstances, the Africa Bureau believes that in many cases the best available option, consistent with regulations, is the use of third party contractors as "Site Coordinators."

Table 2 of the Report makes a comparison between the COR's responsibilities and the Site Coordinator's. We think it is worth noting the language used in our DRC Site Coordinator's position description which makes it clear that this employee is not permitted to cross the line to perform inherently governmental functions:

- *"Serve as a liaison between AF/RSA and any second party contractor, but will not be directly involved with any inherently governmental functions or military activities.*
- Provide instructions to the second party contractor at the direction of the COR, and may be required to perform additional duties related to the projects, which may include coordination efforts with U.S. contractors, non-governmental agencies, the U.S. Embassy in Kinshasa, and other U.S. government representatives, *as directed by the COR.*
- *Observe the second party contractor's compliance with all requirements of its contract, and report to the COR.*
- Provide guidance to the second party contractor's project and program managers, as may be requested by the second party contractor. *Any and all such technical assistance and/or direction will be determined by the COR and relayed to the SC.*
- Monitor the second party contractor's personnel are of the same caliber originally proposed by the second party contractor to the Government *and report to the COR.*
- *Work closely with the COR regarding any change order requests, modifications to the second party contractor's Statement of Work, substitutions and/or additions to personnel.*
- *Assist the COR with verification the second party contractor's invoices and vouchers for factual identification of authorized expenditures.*

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- o Conduct daily visits to the second party contractor's area of operations to complete the following activities: Monitor the second party contractor's performance;
  - o Monitor changes in the technical performance affecting personnel, the schedule, deliverables, and price or costs; and
  - o Inspect and monitor the use of Government property.
- *Monitor* all procurements conducted by the second party contractor for compliance with the Federal Acquisition Regulations (FAR) for fair and equitable competition *and report to the COR.*
- *Monitor* delivery of equipment and services, *and provide reports following the event to the COR.*
- *Provide a memorandum to the COR* recommending the acceptance or rejection of equipment, supplies, and/or services, or any activity outlined in accordance with the terms of the second party contractor's contract.
- Attend and document critical meetings and telephone conversations with the second party contractor.
- Maintain a logbook, which must reflect the date, time, name, and title of individual(s) involved, the subject matter, and the details of the meeting/conversation.”  
(emphasis added)

The table below is a reproduction of the aforementioned Table 2 of the subject draft Report with a third column added that shows where the SC's Position Description ties into the COR's responsibilities:

<b>COR Delegations Versus Site Coordinator Duties and Responsibilities</b>	<b>Site Coordinator</b>	<b>Site Coordinator Position Description</b>
Coordinate with the contractor on all technical matters that may arise over the course of contract/task order administration.	Provide technical direction to the second-party contractor's project and program managers as may be requested by the second-party contractor. Any and all such technical assistance and/or direction is required to be determined by the COR and relayed to the SC [Site	<ul style="list-style-type: none"><li>• Provide instructions to the second party contractor <i>at the direction of the COR...</i></li></ul>

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	Coordinator].	
Monitor and inspect the contractor's progress and performance to assure compliance with the contract/task order terms and conditions.	Monitor the second party contractor's performance; monitor changes in the technical performance affecting personnel, the schedule, deliverables, and price or costs; and ensure that second-party contractor employees are performing all of the work under their contract.	<ul style="list-style-type: none"><li>• <i>Monitor</i> delivery of equipment and services, <i>and provide reports following the event to the COR.</i></li><li>• <i>Monitor</i> all procurements conducted by the second party contractor for compliance with the Federal Acquisition Regulations (FAR) for fair and equitable competition <i>and report to the COR.</i></li><li>• <i>Monitor</i> all procurements conducted by the second party contractor for compliance with the Federal Acquisition Regulations (FAR) for fair and equitable competition <i>and report to the COR.</i></li><li>• <i>Observe</i> the second party contractor's compliance with all requirements of its contract, <i>and report to the COR.</i></li></ul>
Receive deliverables (supplies, services and/or reports) on behalf of the	To the extent possible, inspect equipment, verify services, and provide reports (no later than 2	<ul style="list-style-type: none"><li>• <i>Monitor</i> delivery of equipment and services, <i>and provide reports following the</i></li></ul>

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Government, and verify satisfactory delivery of contract/task order items and prepare receiving reports.	days following the inspection) to the COR; and provide a memorandum to the COR recommending the acceptance or rejection of equipment, supplies, and/or services, or any activity outlined in accordance with the terms of the second-party contractor's contract.	<i>event to the COR.</i>
Approve invoices for payment.	Assist in verifying the second-party contractor's invoices and vouchers for factual identification of authorized expenditures.	<ul style="list-style-type: none"><li>• <i>Assist the COR with verification the second party contractor's invoices and vouchers for factual identification of authorized expenditures.</i></li></ul>
Upon completion of the contract, prepare a statement of satisfactory performance or a statement of any deviations, shortages, or deficiencies.	Provide a memorandum (no later than 3 days following the observations) to the COR as to the state of completion of the work performed by the second-party contractors and grantees.	<ul style="list-style-type: none"><li>• <i>Provide a memorandum to the COR recommending the acceptance or rejection of equipment, supplies, and/or services, or any activity outlined in accordance with the terms of the second party contractor's contract.</i></li></ul>

While the Bureau acknowledges the use of third party contractors as the COR's assistant in the field is less than ideal, we are sensitive to the "inherently governmental" function issue and the requirements of the OPE's Procurement Information Bulletin No. 2012-11. We have underlined that the Site Coordinator

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(SC) serves in an advisory-only capacity to the COR and that the SC assumes none of the COR's inherently governmental functions.

With respect to invoice review, the Africa Bureau agrees that a best practice would require that all employees involved in invoice review be government employees. However, the Bureau does not believe that its current practice, which relies on contractors to perform a preliminary review before CORs approve invoices, violates regulations. The Bureau believes that the Report takes out of context a statement on which this the determination of violation was made: "... one of the Washington-based contractors who assisted with invoice reviews stated that he routinely determined whether contract costs were reasonable, allocable, and allowable..." The Bureau believes that the contractor in question simply misstated his duties with no purpose of deceit. The individual concerned will be able to acknowledge that he makes *recommendations* to the COR as to whether contracts costs are "reasonable, allocable and allowable" and simply serves as one set of eyes on the invoices. The COR always serves as the final arbiter and factors in a variety of technical factors and knowledge of events on the ground before he/she is able to exercise the final approval of invoices before payment.

**Africa Bureau Comments on Recommendations:**

The Bureau fully agrees with recommendation 1. Recommendation 2 is included in Recommendation 3, and the Bureau recommends that they be combined. The Bureau will respond to the recommendations substantively when the report is received in final.

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**Bureau of Administration,  
Office of the Procurement Executive Response**



United States Department of State

Washington, D.C. 20520

December 9, 2013

**MEMORANDUM**

TO: OIG/AUD-Norman P. Brown, Acting

FROM: A/OPE-Corey M. Rindner *Corey M. Rindner*

SUBJECT: Draft Report on Audit of Department of State's Selection and Positioning of Contracting Officer's Representatives dated November 2013

Thank you for the opportunity to comment on the draft audit report on the important topic of selection and positioning of CORs. A/OPE would like to provide additional information and clarifications for consideration in finalizing the report and recommendations. The point of contact for this report is Eric N. Moore who can be reached at 703-875-(b) (2), [Redacted] (b) (6).

**Finding B** observes that challenges exist with COR experience, positioning and oversight within the AF bureau. The report holds two CORs to an experience standard that was not in effect at the time of their appointment. New standards have an effective date to ensure an adequate transition between the old and the new. The report is unable to determine whether the two AF CORs had the necessary experience to meet the new standard which was not yet effective at State when they were appointed. The CORs met the standards then in place.

The report indicates that AF contractor responsibilities "appeared" to be (at least) "closely associated with inherently governmental functions if not (actually) inherently governmental". It also indicates that the Department did not provide an additional degree of oversight in violation of the Federal Acquisition Regulation (FAR). The determination of whether a function is inherently governmental, closely associated, or commercial is an evaluation. Procurement Information Bulletin (PIB) 2012-11, Preventing Contractor Performance of Inherently Governmental Functions, provides guidance and a DS-4208 form to make this determination. Both **Recommendation 2 and 3** state that AF should "avoid assigning inherently governmental, critical or closely related functions to contractors, as prohibited by the Federal Acquisition

Regulation. There is no FAR prohibition against assigning critical or closely related functions to contractors, only a caution to provide greater scrutiny and oversight as discussed below.

The Department promulgated guidance on greater scrutiny and oversight in both PIB 2011-11 Planning for Contract Administration, and 14 FAH-2 H-115, the Contracting Officer's Representatives Handbook. Mitigation strategies include reserving final decisions and determinations for the government COR to ensure that decisions are made by the government. The report contains a table comparing COR responsibilities with the duties of contractor site representatives. The site representative duties appear to reserve decision making for the COR in compliance with Department guidance. Technical direction is "required to be determined by the COR". The contractor is to "provide reports to the COR and recommending acceptance or rejection", "assist in verification", and "provide a memo to the COR on the state of completion". The report cites a statement by a contractor employee that he "determined cost allowability" as an indication of an inherently governmental function. Determining cost allowability would be a government function. If the invoice was subject to a final review and approval by the COR, then it would appear that the COR would be making the final determination. The contractor employee should be counseled to correct this misinterpretation and the contractor's duties clarified.

OPE agrees with the recommendation that AF should seek to hire individuals with current COR experience to manage programs. OPE also agrees that bureaus should expand the number of government CORs to ensure more oversight and to retain critical capability. OPE is concerned, however, that the interpretation on the use of contractor support may limit the use of a legitimate contractor support.

**Finding C** relates to COR Workforce Management and Planning. OPE offers some additional information for clarification.

Previously, the Department had no method of tracking the training and qualifications of CORs, documenting their certification, and providing this information to contracting officers for their use in appointing CORs and managing the process. OPE created a management tool consisting of a web based system where CORs could document their credentials, obtain supervisor approval, obtain OPE verification and assignment of certification level, and provide an on-line method for the contracting officer to verify the certification status of a COR before making a contract appointment. In addition, the system provides each bureau with the ability to identify certified CORs working for that bureau as well as providing a reminder to CORs via email about the need to recertify. Recertification status is also managed in the system. As indicated in the report, contracting officers are using this tool to appoint certified CORs. This significant accomplishment created a management system for certifying, identifying and tracking certified CORs.

The report correctly points out that the system tracks only the certification status of the CORs, but does not track actual contract assignments. The system has been modified to include a data element for contract assignment which should resolve **Recommendation 4**.

The report correctly notes that OPE obtained additional information for the Department's Acquisition Workforce Human Capital Plan from DS, OBO, INL and NEA about upcoming projects as well as those bureaus current COR workforce and projected COR staffing needs. While these bureaus represented numerically less than half of the Department's FAC-COR qualified workforce, they represented bureaus with challenging and extraordinary requirements in Iraq and Afghanistan. These are also the bureaus with the highest levels of expenditures on contracts. The Acquisition Workforce Human Capital Planning exercise resulted in these bureaus focusing on their most challenging requirements. OPE concurs with **Recommendation 5** and will request additional information from all bureaus.

The report does not identify several significant initiatives and accomplishments to improve the selection and positioning of CORs. The Department updated COR training to make it more relevant, skills based and adult learning centered. A contracting officer was assigned to be the course manager to ensure COR training focuses on the relationship between the COR and the contracting officer. The throughput of training increased. A COR electronic "homeroom" was developed by FSI to enhance the COR sense of community and to share best practices. Semi-annual COR workshops have been held with hundreds of CORs in attendance at each session to share best practices and issues. OIG, GAO, DOD and other agency presenters added important perspectives. An annual COR award now recognizes COR accomplishments and raises the visibility and importance of the function.

**Finding D** relates to COR specific policies. To qualify as a COR, individuals must be certified by OPE based on required training and contract administration experience. Program Offices nominate certified individuals with the necessary technical knowledge to be effective oversight personnel on a specific program. While OPE can, and does, provide guidance on training and contract administration experience, technical subject matter expertise cannot be standardized and must, by necessity, be defined for each program contract by the Program Office. Contracting Officers perform a check of reasonableness to see if any relevant experience is cited, but neither they nor OPE can define the appropriate level of technical experience.

14 FAH-2 H-143.2 COR Appointment Procedures identifies the process for nominating individuals to serve as CORs. DOSAR 642.270 discusses the requirement for a nomination memorandum and references OPE samples. The sample memorandum requires the nominating office to detail training, technical qualifications and experience including dates and types of work performed. This is the same information cited in the report for OBO nominations where the report stated that "the summary of each nominee's assignment and training history" provided the Contracting Officer with the information needed for appointment. Since this information is already required, OPE requests clarification of **Recommendation 6**.

**Recommendation 7** requires OPE to develop and issue policy on how Contracting Officers should make a determination of the appropriate certification level required for a particular contract. OMB identified the criteria for each of the three levels of COR certification. These criteria are contained in Procurement Information Bulletin (PIB) 2012-15. OMB's purpose in establishing these criteria was to provide contracting officers with latitude to determine an appropriate level of certification. OPE disagrees with substituting additional criteria for contracting officer judgment. OPE will work with AQM to ensure contracting officers understand the criteria.

**Performance evaluations:** A/OPE and DGHR implemented a requirement for individuals with COR responsibilities covering at least 25% of their work to be evaluated on these duties. Sample work commitments were promulgated and defined in Department Notices and FAH guidance in January and April 2011. We are not aware that other agencies promulgated a similar requirement.

The report determined that 75% of CORs reviewed had relevant work elements. Considering this is a two year old requirement, this would appear to be a positive finding. OPE agrees with **Recommendation 8** on the need to continue to evaluate compliance with this requirement and will select a judgmental sample of CORs on a periodic basis to validate that relevant work elements are included in performance appraisals.

**Recommendation 9** identifies as a deficiency a lack of standardized guidance on how to evaluate CORs who are not Civil Service or Foreign Service personnel. Offices within the Department use **When Actually Employed (WAE)** personnel to perform essential services. WAE may serve for limited periods of time and are invited to return only if the performance of their duties was deemed adequate by employing supervisors. Because WAE may only work part of the year, their ability to serve as CORs is limited, as is any evaluation period. OPE recommends that any recommendations for changing the way WAE are currently evaluated be directed to DGHR for application to all WAE performers.

Bureaus utilize **detailees** from other bureaus as well as from other agencies. Detailee work requirements are documented in a memorandum of agreement (MOU) that defines duties and responsibilities. Since detailees remain employees of the home bureau or agency, receiving organizations provide feedback to the home office on detailee performance. Because detailees serve a limited duration, their use as CORs is limited. OPE requests that any recommendations for changing the way detailee performance is evaluated be directed to DGHR for application to all detailee assignments.

**Personal Services Contractors** are renewed on an annual basis. Bureaus review PSC performance annually prior to renewal and document the assessment. Duties are detailed in the Statement of Work of the contract. OPE recommends that the report consider how PSCs are currently evaluated prior to determining the need for a different approach.

**3161 authority** is limited within the Department and allows for employment for a one year period. NEA/SCA used 3161 authority to support missions in Iraq and Afghanistan. Much of this authority has expired. NEA/SCA advised that they perform an annual evaluation of 3161 performance prior to renewing both the need for the position and the extension of an individual assignment. Since 3161s are used in disciplines beyond contract administration, and the authority is lapsing OPE requests that any recommendations for changing how 3161 employees are evaluated be directed to DGHR.

**Recommendation 10** requests that OPE and DGHR standardize the method of obtaining contracting officer feedback on COR performance. OPE will add a requirement for supervisors of employees with COR work commitments to obtain feedback via email or telephone discussion from contracting officers when drafting performance appraisals similar to how inputs are currently obtained from offices that are supported by individuals. OPE will also advise bureaus using resources such as personal services contractors to also obtain contracting officer feedback.

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